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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **3682**

March 17, 2010

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The bill was read for the first time and referred to the Committee on Finance

April 12, 2010

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to state government; providing for disposal of certain state-owned
1.3 buildings; changing provisions in the energy improvement financing program;
1.4 changing executive branch agency representation in the reinsurance association;
1.5 amending Minnesota Statutes 2008, sections 16B.24, subdivision 3; 16B.322,
1.6 subdivisions 4, 5; 79.34, subdivision 1; Minnesota Statutes 2009 Supplement,
1.7 section 16B.322, subdivisions 4a, 4b, 4c.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2008, section 16B.24, subdivision 3, is amended to read:

1.10 Subd. 3. **Disposal of old buildings.** (a) Upon request from the head of an agency
1.11 with control of a state-owned building with an estimated market value of less than
1.12 \$50,000, as determined by the commissioner, the commissioner may sell, demolish, or
1.13 otherwise dispose of the building if the commissioner determines that the building is no
1.14 longer used or is a fire or safety hazard.

1.15 ~~The commissioner;~~ (b) Upon request of the head of an agency which has with control
1.16 of a state-owned building which is no longer used or which is a fire or safety hazard, shall,
1.17 with an estimated market value of \$50,000 or more, as determined by the commissioner,
1.18 the commissioner may sell, demolish, or otherwise dispose of the building after
1.19 determining that the building is no longer used or is a fire or safety hazard and obtaining
1.20 approval of the chairs of the senate Finance Committee and house of representatives Ways
1.21 and Means Committee, sell, wreck, or otherwise dispose of the building.

1.22 (c) In the event a sale is made under this subdivision, the proceeds shall be deposited
1.23 in the proper account or in the general fund provided by law. If there is no requirement in
1.24 law specifying how proceeds must be deposited other than section 16A.72, the proceeds
1.25 must be deposited in the account from which the appropriation to acquire or construct the

2.1 building was made. If the account from which the appropriation was made cannot be
2.2 identified or has been terminated, the proceeds shall be deposited in the general fund.

2.3 Sec. 2. Minnesota Statutes 2008, section 16B.322, subdivision 4, is amended to read:

2.4 Subd. 4. **Financing agreement.** The commissioner shall solicit proposals from
2.5 private financial institutions on an individual project or line of credit basis and may enter
2.6 into a financing agreement with one or more financial institutions. If a financing agreement
2.7 is for an individual project, the term of the financing agreement shall not exceed 15 years
2.8 from the date of final completion of the energy improvement project. ~~The~~ and a financing
2.9 agreement is assignable to the state agency operating or managing the state building or
2.10 facility improved by the energy improvement project. The term of a financing agreement
2.11 on an individual project basis must be less than the average expected useful life of the
2.12 energy saving measures implemented under the project. The proceeds from the financing
2.13 agreement are appropriated to the commissioner and may be used for the purposes of
2.14 this section and are available until spent.

2.15 Sec. 3. Minnesota Statutes 2009 Supplement, section 16B.322, subdivision 4a, is
2.16 amended to read:

2.17 Subd. 4a. **Financing agreement.** The commissioner of administration may, in
2.18 connection with a financing agreement, covenant ~~in a master lease-purchase agreement~~
2.19 that the state will abide by the terms and provisions that are customary in net lease or
2.20 lease-purchase transactions including, but not limited to, covenants providing that the state:

2.21 (1) will maintain insurance as required under the terms of the lease agreement;

2.22 (2) is responsible to the lessor for any public liability or property damage claims or
2.23 costs related to the selection, use, or maintenance of the leased equipment, to the extent of
2.24 insurance or self-insurance maintained by the lessee, and for costs and expenses incurred
2.25 by the lessor as a result of any default by the lessee;

2.26 (3) authorizes the lessor to exercise the rights of a secured party with respect to the
2.27 equipment subject to the lease in the event of default by the lessee and, in addition, for
2.28 the present recovery of lease rentals due during the current term of the lease as liquidated
2.29 damages.

2.30 Sec. 4. Minnesota Statutes 2009 Supplement, section 16B.322, subdivision 4b, is
2.31 amended to read:

2.32 Subd. 4b. **Master lease-purchase agreements not debt.** A ~~tax-exempt~~
2.33 ~~lease-purchase agreement related to a financing agreement~~ under this section does not

3.1 constitute or create a general or moral obligation or indebtedness of the state in excess
3.2 of the money from time to time appropriated or otherwise available for the payment of
3.3 rent coming due under the lease, and the state has no continuing obligation to appropriate
3.4 money for the payment of rent or other obligations under the ~~lease agreement~~. Rent due
3.5 under a ~~master lease-purchase~~ financing agreement under this section during a current
3.6 ~~lease~~ term for which money has been appropriated is a current expense of the state.

3.7 Sec. 5. Minnesota Statutes 2009 Supplement, section 16B.322, subdivision 4c, is
3.8 amended to read:

3.9 Subd. 4c. **Budget offset.** The commissioner shall require a state agency that uses
3.10 the state energy improvement program to certify that the agency will budget, allocate, and
3.11 commit agency funds sufficient to make rent payments under a financing agreement until
3.12 all rent obligations are paid in full. In the event a participating agency fails to make a
3.13 rent payment, the commissioner of management and budget shall reduce the operating
3.14 ~~budgets~~ budget of the state agencies that use the master lease-purchase program under a
3.15 ~~financial agreement~~ agency. The amount of the reduction is the amount sufficient to
3.16 make the actual ~~master lease~~ payments.

3.17 Sec. 6. Minnesota Statutes 2008, section 16B.322, subdivision 5, is amended to read:

3.18 Subd. 5. **Qualifying energy improvement projects.** The commissioner may
3.19 approve an energy improvement project ~~and enter into~~ for a financing agreement if the
3.20 commissioner determines that:

3.21 (1) the project and project financing agreement have been approved by the governing
3.22 body or head of the state agency that operates or manages the state building or facility to
3.23 be improved;

3.24 (2) the project is technically and economically feasible;

3.25 (3) the state agency that operates or manages the state building or facility has made
3.26 adequate provision for the operation and maintenance of the project;

3.27 (4) if an energy efficiency improvement, the project is calculated to result in a
3.28 positive cash flow in each year the financing agreement is in effect;

3.29 (5) the project proposer has fully explored the use of conservation investment plan
3.30 opportunities under section 216B.241 with the utilities providing gas and electric service
3.31 to the energy improvement project;

3.32 (6) if a renewable energy improvement, the project is calculated to reduce use of
3.33 fossil-fuel energy; and

4.1 (7) if a geothermal energy improvement, the project is calculated to produce savings
4.2 in terms of nongeothermal energy and costs.

4.3 For the purpose of clause (6), "renewable energy" is energy produced by an eligible energy
4.4 technology as defined in section 216B.1691, subdivision 1, paragraph (a), clause (1).

4.5 Sec. 7. Minnesota Statutes 2008, section 79.34, subdivision 1, is amended to read:

4.6 Subdivision 1. **Conditions requiring membership.** The nonprofit association
4.7 known as the Workers' Compensation Reinsurance Association may be incorporated under
4.8 chapter 317A with all the powers of a corporation formed under that chapter, except that
4.9 if the provisions of that chapter are inconsistent with sections 79.34 to 79.40, sections
4.10 79.34 to 79.40 govern. Each insurer as defined by section 79.01, subdivision 2, shall, as
4.11 a condition of its authority to transact workers' compensation insurance in this state, be
4.12 a member of the reinsurance association and is bound by the plan of operation of the
4.13 reinsurance association; provided, that all affiliated insurers within a holding company
4.14 system as defined in chapter 60D are considered a single entity for purposes of the exercise
4.15 of all rights and duties of membership in the reinsurance association. Each self-insurer
4.16 approved under section 176.181 and each political subdivision that self-insures shall, as a
4.17 condition of its authority to self-insure workers' compensation liability in this state, be a
4.18 member of the reinsurance association and is bound by its plan of operation; provided that:

4.19 (1) all affiliated companies within a holding company system, as determined by
4.20 the commissioner of labor and industry in a manner consistent with the standards and
4.21 definitions in chapter 60D, are considered a single entity for purposes of the exercise of all
4.22 rights and duties of membership in the reinsurance association; and

4.23 (2) all group self-insurers granted authority to self-insure pursuant to section
4.24 176.181 are considered single entities for purposes of the exercise of all the rights and
4.25 duties of membership in the reinsurance association. As a condition of its authority to
4.26 self-insure workers' compensation liability, and for losses incurred after December 31,
4.27 1983, the state is a member of the reinsurance association and is bound by its plan of
4.28 operation. The commissioner of ~~management and budget~~ administration represents
4.29 the state in the exercise of all the rights and duties of membership in the reinsurance
4.30 association. The amounts necessary to pay the state's premiums required for coverage by
4.31 the Workers' Compensation Reinsurance Association are appropriated from the general
4.32 fund to the commissioner of ~~management and budget~~ administration. The University
4.33 of Minnesota shall pay its portion of workers' compensation reinsurance premiums
4.34 directly to the Workers' Compensation Reinsurance Association. For the purposes of
4.35 this section, "state" means the administrative branch of state government, the legislative

5.1 branch, the judicial branch, the University of Minnesota, and any other entity whose
5.2 workers' compensation liability is paid from the state revolving fund. The commissioner
5.3 of management and budget may calculate, prorate, and charge a department or agency
5.4 the portion of premiums paid to the reinsurance association for employees who are
5.5 paid wholly or in part by federal funds, dedicated funds, or special revenue funds. The
5.6 reinsurance association is not a state agency. Actions of the reinsurance association and its
5.7 board of directors and actions of the commissioner of labor and industry with respect to
5.8 the reinsurance association are not subject to chapters 13 and 15. All property owned by
5.9 the association is exempt from taxation. The reinsurance association is not obligated to
5.10 make any payments or pay any assessments to any funds or pools established pursuant to
5.11 this chapter or chapter 176 or any other law.

5.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.